

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

BILLJCO, LLC,

Plaintiff,

v.

CISCO SYSTEMS, INC.,

Defendant.

Case No. 2:21-cv-00181-JRG
(Lead Case)

BILLJCO, LLC,

Plaintiff,

v.

HEWLETT PACKARD ENTERPRISE
COMPANY, ARUBA NETWORKS, LLC

Defendants.

Case No. 2:21-cv-00183-JRG
(Member Case)

**DECLARATION OF KRISHNAN PADMANABHAN IN SUPPORT OF DEFENDANT
CISCO SYSTEMS INC'S MOTION FOR LEAVE TO AMEND INVALIDITY
CONTENTIONS**

I, Krishnan Padmanabhan, hereby declare and state as follows:

1. I am an attorney licensed to practice in the State of New York. I am a Partner at the law firm of Winston & Strawn LLP and work in its New York City office. I am an attorney for Defendant Cisco Systems, Inc. in the above-captioned matter.

2. Attached as Exhibit 1 is a true and correct copy of BillJCo's Disclosure of Asserted Claims and Infringement Contentions, dated September 15, 2021.

3. Attached as Exhibit 2 is Cisco's Preliminary Invalidity Contentions, dated November 10, 2021.

4. Attached as Exhibit 3 is Plaintiff's Answers to Cisco Systems, Inc. First Set of Interrogatories (Nos. 1-5), dated December 20, 2021.

5. Attached as Exhibit 4 is a copy of the Masters Thesis of M.D. Pinkerton, entitled Ubiquitous Computing: Extending Access to Mobile Data, dated May 1997.

6. Attached as Exhibit 5 is correspondence dated February 21, 2022 from K. Padmanabhan to B. Michalek regarding Defendants' intention to amend their invalidity contentions.

7. Attached as Exhibit 6 is correspondence dated February 23, 2022 from D. Lin to B. Michalek providing Plaintiff BillJCo with invalidity charts for the Cyberguide and ParcTab prior art systems that Defendants sought to add through their amended invalidity contentions

8. Attached as Exhibit 7 is a copy of redline showing the amendments proposed by Defendants' First Amended Invalidity Contentions.

9. On December 20, 2021, Cisco received BillJCo's responses to Cisco Systems, Inc. First Set of Interrogatories (attached hereto as Exhibit 3). When Cisco discovered that BillJCo was asserting a conception date different than the date listed in BillJCo's Infringement Contentions (attached hereto as Exhibit 2), Cisco revisited their Invalidity Contentions and prior art searches, and conducted additional prior art searching. As a result, Cisco obtained information about two prior art systems—Cyberguide and ParcTab—that predated BillJCo's newly provided October 1, 2007 conception date and invalidate the asserted claims under pre-AIA 35 U.S.C. § 102(g).

10. Based on the information available to Defendants, the Cyberguide and ParcTab systems were developed in the 1990s, and development of the Cyberguide system continued into the early

2000s, while development of ParcTab concluded in the 1990's. Accordingly, both the Cyberguide and ParcTab systems are twenty to thirty years old.

11. In conjunction with this invalidity analysis in December 2021, counsel for Cisco also tried to locate and contact researchers associated with the Cyberguide and ParcTab systems to obtain additional information related to these systems. Given the age of those projects, as well as the winter holidays and Omicron surge, establishing contact with the relevant researchers proved difficult. In addition, Cisco had trouble accessing many of the files and websites associated with Cyberguide because they have been taken down from the website of the Georgia Institute of Technology ("Georgia Tech."), where that system was developed. It was only at the start of February that counsel for Cisco was able to make contact with Professor Gregory Abowd, the lead researcher associated with Cyberguide. Similarly, Cisco was forced to serve a third-party subpoena to Google, which presently employs several researchers associated with ParcTab, in order to pursue additional information regarding that system. Cisco is still awaiting discovery on that system from Google.

12. Cisco received documentation supporting its contentions regarding the Cyberguide prior art system on February 17, 2022 from Professor Abowd. This included a Masters Thesis of Michael Pinkerton that is no longer publicly available (attached hereto as Exhibit 4), and was provided by Professor Abowd.

13. Cisco notified BillJCo of its intent to supplement its invalidity contentions with the Cyberguide and ParcTab systems on February 21, 2022. Cisco provided BillJCo a copy of its proposed amended invalidity contentions on February 23, 2022.

14. Attached as Exhibit 8 is a true and correct copy of *Grand Overseas, Inc. v. CVS Pharmacy, Inc.*, No. 2:15-cv-1401, Dkt. No. 32 (E.D. Tex. Oct. 28, 2016).

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and that this declaration was executed this 25th day of February 2022, in New York City.

/s/ Krishnan Padmanabhan
Krishnan Padmanabhan